



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Washington, D.C. 20460

OFFICE OF  
GENERAL COUNSEL

**MEMORANDUM**

SUBJECT: Recusal Statement

FROM: Erik Baptist *Erik Baptist (10/12/17)*  
Senior Deputy General Counsel

TO: Kevin S. Minoli  
Acting General Counsel  
Designated Agency Ethics Official

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

*FINANCIAL CONFLICTS OF INTEREST*

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I confirm that I am recused from participating personally and substantially in any particular matter that that would have a direct and predictable effect on the **George Washington University Law School Alumni Association** (given my fiduciary position) or with **Alphabet Inc. (Google)**, and **US Bancorp**. Although OGC/Ethics advises that conflicts are unlikely to arise, I understand that I am prohibited from participating personally and substantially in any particular matter that affects these entities as a specific party or as a member of an affected class, including any particular matter of general applicability that is focused on the **internet**

**technology or the banking sectors.**

#### *OBLIGATIONS UNDER EXECUTIVE ORDER 13770*

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, the **American Petroleum Institute (API)**, or any former client to whom I provided legal services during the past two years is a party or represents a party. I understand that my recusal from particular matters involving API as a specific party lasts until June 18, 2019, which is two years from the date that I joined federal service. Attached is a list of cases involving the API that I will not participate in during this two-year period.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means five or more parties.

Pursuant to Section 1, Paragraph 7 of the Executive Order, since I was a registered lobbyist during the past two years, I understand that I am also prohibited from participating in any particular matter on which I lobbied within the previous two years and prohibited from participating in the specific issue area in which that particular matter falls, unless I obtain a waiver pursuant to Section 3 of the Executive Order. I understand that this recusal lasts for two years from the date that I joined federal service. Within the previous two years, I lobbied Congress on the Renewable Fuel Standards program, including the renewable fuel percentage standards issued pursuant to Section 211(o) of the Clean Air Act, 42 U.S.C. § 7545(o). I was advised that I must recuse from this particular matter of general applicability and specific issue area, and I did so until the Counsel to the President granted me a limited waiver of the provisions of Paragraph 7 on August 25, 2017. I understand that I am now authorized to participate personally and substantially in matters regarding the Renewable Fuel Standards program.

#### *ATTORNEY BAR OBLIGATIONS*

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Attached is a list of cases I am recused from given my participation while at the API.

#### *SCREENING ARRANGEMENT*

In order to ensure that I do not participate in matters relating to any of the entities listed above or matters identified in the Attachments, I will instruct David Fotouhi, Deputy General Counsel, and Rich Albores, Associate Deputy General Counsel, to assist in screening EPA



matters directed to my attention that involve those entities or sectors. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics. I will also instruct my principal subordinates that all inquiries and comments involving the matters on my recusal lists should be directed to Messrs. Fotouhi and Albores without my knowledge or involvement until after my recusal period ends.

If Mr. Fotouhi or Mr. Albores determines that a particular matter will directly involve the API, the George Washington University Law School Alumni Association, Alphabet Inc. (Google), or US Bancorp, then he will refer it for action or assignment to another, without my knowledge or involvement. If he identifies a particular matter of general applicability that is focused on the interests of any of the individual sectors on my recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics for a determination.

#### *UPDATE AS NECESSARY*

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

#### Attachments

cc: Elise Packard, Acting Principal Deputy General Counsel  
David Fotouhi, Deputy General Counsel  
Justin Schwab, Deputy General Counsel  
Richard L. Albores, Associate Deputy General Counsel  
OGC Associate General Counsels and Directors  
Justina Fugh, Senior Counsel for Ethics  
Regional Counsels

Erik Baptist  
 RECUSAL LIST – EXECUTIVE ORDER 13,770  
 In effect until June 18, 2019

FORMER EMPLOYER: American Petroleum Institute

CASE NAME:	CITATION:
Coffeyville Resources Refining & Marketing, LLC, <i>et al.</i> v. EPA	No. 17-1044 (D.C. Cir.)
State of New Jersey v. EPA	No. 08-1065 (D.C. Cir.)
American Petroleum Institute, <i>et al.</i> v. EPA	No. 11-1309 (D.C. Cir.)
Sierra Club, <i>et al.</i> v. EPA	No. 13-1262 (D.C. Cir.)
Powder River Basin Resource Council, <i>et al.</i> v. EPA <sup>1</sup>	No. 14-9530 (10th Cir.)
American Petroleum Institute v. EPA	No. 15-1197 (D.C. Cir.)
Murray Energy Corporation v. EPA	No. 15-1385 (D.C. Cir.)
Walter Coke, Inc., <i>et al.</i> v. EPA	No. 15-1166 (D.C. Cir.)
National Resource Defense Council, <i>et al.</i> v. EPA	No. 16-1413 (D.C. Cir.)
National Environmental Development Association's Clean Air Project v. EPA	No. 16-1344 (D.C. Cir.)
American Chemistry Council, <i>et al.</i> v. EPA	No. 17-1085 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 09-1038 (D.C. Cir.)
American Chemistry Council, <i>et al.</i> v. EPA	No. 17-1064 (D.C. Cir.)
Murray Energy, <i>et al.</i> v. EPA	No. 15-3751 (6th Cir.)
Sierra Club, <i>et al.</i> v. EPA	No. 03-1435 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 08-1124 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 08-1277 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 12-1405 (D.C. Cir.)
American Petroleum Institute v. EPA	No. 13-1108 (D.C. Cir.)
American Fuel & Petrochemical, <i>et al.</i> v. EPA	No. 16-1033 (D.C. Cir.)
Air Alliance Houston, <i>et al.</i> v. EPA	No. 17-1155 (D.C. Cir.)

<sup>1</sup> API filed an amicus brief on behalf of EPA's decision to approve Wyoming's State Implementation Plan. Although API was not a party to the litigation itself, I will not participate in this case.

Erik Baptist RECUSAL LIST – ATTORNEY BAR OBLIGATIONS	
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